

**BEFORE THE  
STATE BOARD OF REGISTRATION FOR THE HEALING ARTS**

STATE BOARD OF REGISTRATION  
FOR THE HEALING ARTS,

Petitioner,

v.

RICHARD D. ZUJKO, M.D.,

Respondent.

Case No. 02-0692 HA

**SETTLEMENT AGREEMENT**

Respondent, Richard D. Zujko, M.D., and the State Board of Registration for the Healing Arts ("Board") enter into this Agreement for the sole purpose of resolving, and without an admission of any liability or wrong doing, the question of whether Dr. Zujko's license as a physician or surgeon in this State is subject to discipline, the discipline to be imposed and the terms thereof. Respondent and the Board jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo.

1. Respondent acknowledges that he understands the various rights and privileges afforded by law, including the right to a hearing of the charges against Respondent; the right to appear and be represented by legal counsel; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf; the right to a decision based upon the record by a fair

and impartial administrative hearing commissioner concerning the charges pending against Respondent; and subsequently, the right to a disciplinary hearing before the Board at which time evidence may be presented in mitigation of discipline. Having been advised of these rights provided Respondent by operation of law; Respondent knowingly and voluntarily waives each and every one of these rights and freely enters into this Agreement and agrees to abide by the terms of this document as they pertain to Respondent.

2. Respondent acknowledges that he may, at the time this Agreement is effective or within fifteen days thereafter, submit this Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for discipline of Respondent's license.

3. Respondent acknowledges that he has been informed of his right to consult legal counsel in this matter.

4. Respondent hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claims, actions, causes of action, fees, costs, and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case or this Agreement, or from the negotiation or execution of this Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this

Agreement in that it survives in perpetuity even in the event that any court of law deems this Agreement, or any portion thereof, void or unenforceable.

5. Respondent understands that the Board may take disciplinary action against Respondent based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered. The Board currently knows of no additional facts or conduct which could be a basis for discipline.

6. Respondent understands and agrees that the Board will maintain this Agreement as an open record of the Board as required by Chapters 334, 610, 620, and 621, RSMo, as amended.

Based upon the foregoing, and for the sole and limited purpose of entering into this settlement agreement, Board and Respondent herein jointly stipulate to the following:

#### JOINT PROPOSED FINDINGS OF FACT

1. Petitioner, the Missouri State Board for the Registration of the Healing Arts ("Board") is an agency of the State of Missouri created and established pursuant to § 334.120, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.

2. Respondent is licensed by the Board as a physician and surgeon, license number MD114057. This license was first issued on November 11, 1997 and is now current and active and was so at all times mentioned herein. However, Respondent's certificate of registration is currently in a non-renewed status.

3. Respondent acknowledges and admits that, if this matter were to proceed to a

hearing, there exists sufficient evidence from which the AHC could find that: 1) that Respondent's care and treatment with respect to the twelve patients set forth in the Board's Amended Complaint deviated from the applicable standard of care as more particularly set forth in § 334.100.2(5) RSMo.; 2) that all of the patients were residents of Missouri and the services were furnished in Missouri; 3) that Respondent had multiple adverse medical liability claim settlements; 4) that Respondent was guilty of repeated acts of negligence; 5) and that the Kansas Board of Healing Arts had initiated disciplinary proceedings against Respondent arising from essentially the same acts and conduct as more particularly set forth in Petitioner's Amended Complaint.

4. That Respondent, without admitting any liability (civil or criminal) and for the sole purpose of settling and resolving the present dispute, elects to not contest or dispute the factual allegations as more particularly set forth in Petitioner's First Amended Complaint.

5. That on January 31, 2004, Respondent and the Kansas Board of Healing Arts entered into a Consent Order in which Respondent agreed that there were grounds for disciplining his Kansas license.

6. In the Consent Order, the Respondent agreed to voluntarily surrender his Kansas license and not to reapply for the license for a period of three years.

7. Respondent is currently not capable of practicing medicine with reasonable skill and safety.

## JOINT PROPOSED CONCLUSIONS OF LAW

8. Cause exists to discipline Respondent's license pursuant to § 334.100.2(5), (8) and (25), RSMo, which state in pertinent part:

2. The Petitioner may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

\* \* \* \*

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, **"repeated negligence"** means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

\* \* \* \*

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the Respondent or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed

forces of the United States of America, insurance company,  
court, agency of the state or federal government, or employer;

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\* \* \* \*

(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. . . .

\* \* \* \*

## II.

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the State Board of Registration for the Healing Arts in this matter under the authority of Section 621.110, RSMo. This Agreement will be effective immediately on the date entered and finalized by the Board.

A. Effective the date the Board enters into the Agreement:

1. The medical license, No. MD114057, issued to Respondent is hereby REVOKED.

2. Respondent shall not apply for license reinstatement in Missouri for a minimum period of seven years. Respondent shall immediately return all indicia of Missouri medical licensure to the Petitioner, including but not limited to, his wall-hanging license and pocket card.

3. That all protective orders with respect to the twelve patients that are the subject


of this proceeding and with respect to Respondent's medical condition and treatment therefore shall remain in full force and effect.

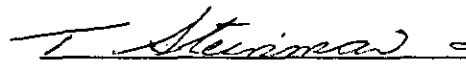
4. Respondent hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to §536.087, RSMo, or any claim arising under 42 U.S.C. 1983, which may be based upon, arise out of, or relate to any of the matters raised in this agreement, or from the negotiation or execution of this agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this agreement in that it survives in perpetuity even in the event that any court of law deems this agreement or any portion thereof void or unenforceable.

5. In consideration of the foregoing, the parties consent to the termination of any further proceedings based upon the facts set forth herein. Upon this agreement becoming final, Petitioner agrees to dismiss with prejudice the First Amended Complaint filed with the Missouri Administrative Hearing Commission in Case No. 02-0692 HA.

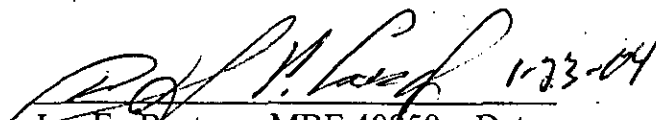
RESPONDENT

PETITIONER

 1-19-04  
Richard D. Zujko, M.D. Date

 2/2/04  
Tina Steinman Date  
Executive Director

BEETEM & CARD, LLC.

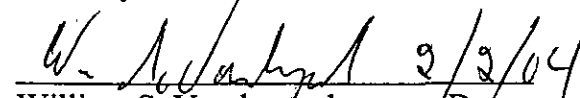
 1-23-04  
Jon E. Beetem MBE 40050 Date  
Daniel P. Card II, MBE 24272  
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ATTORNEYS FOR PETITIONER

EFFECTIVE THIS 2 DAY OF February, 2004.